

NEWPORT BEACH HARBOR COMMISSION REGULAR MEETING MINUTES
City Council Chambers – 100 Civic Center Drive
Wednesday, January 11, 2023
5 p.m.

1) **CALL MEETING TO ORDER**

The meeting was called to order at 5 p.m.

2) **ROLL CALL**

Commissioners: Steve Scully, Chair
Ira Beer, Vice Chair
Marie Marston, Commissioner
Rudy Svrcek, Commissioner
Gary Williams, Commissioner

Excused: Don Yahn, Secretary
Scott Cunningham, Commissioner

Staff Members: Paul Blank, Harbormaster
Chris Miller, Public Works Administrative Manager
Jennifer Biddle, Administrative Support Specialist

3) **PLEDGE OF ALLEGIANCE – Commissioner Svrcek**

4) **PUBLIC COMMENTS**

Chris Bliss noted that there has been talk about how America's Cup Harbor is comparable to Newport Beach Harbor. He reported he visited America's Cup Harbor and conducted measurements of the currents down there. He presented a video of America's Cup Harbor between high tide and low tide which visually shows no water movement. He noted in the video that he dropped a tide and current measuring device overboard which did not move an inch. He noted that he can safely conclude that there is no water movement of any kind in America's Cup Harbor. He presented a video of the same device floating in Newport Beach Harbor's main channel which detected a current and showed the float heading towards the entrance of the harbor. He noted there is no movement in America's Cup Harbor because it is so protected.

John Fradkin described Newport Harbor as being like a river four times a day and presented a video from January 6, 2023, with himself and George Hylkema showing a strong tidal current in Newport Beach Harbor. He noted there was no tidal current in America's Cup Harbor. He explained it would take 13 seconds for a vessel to move 20 feet which is the amount of space allocated in Vice Chair Beer's double-row mooring proposal between two tandem boats. He explained that headwinds would only make the condition worse. He noted that is not enough time to safely put a vessel in gear and move it and believes it is not safer than the current configuration. He encouraged the Harbor Commission to reconsider Vice Chair Beer's proposal to test the double-row mooring field layout in the C Field and save \$400,000 in costs.

Wade Womack, representing the Newport Beach Mooring Association (NMA), thanked Chair Scully, Vice Chair Beer, and Commissioner Cunningham for conducting the December stakeholder meeting. He noted the meeting was productive and believed the NMA was able to illustrate serious safety concerns regarding the double-row mooring proposal. He announced the NMA has a mooring field workshop scheduled for Monday, January 30 at 5 p.m. at Marina Park which is intended to get stakeholders and mooring users together to come up with fresh ideas for the betterment of the mooring fields and to work on gaining consensus on a couple of the ideas that Commissioners have put forth. He reported the NMA has requested an informal meeting with the subcommittee to better collaborate and to review the proposed Harbor Code revisions in advance of them being agendized and thinking about the double mooring proposal and the objective of inviting general navigation into the mooring fields. He noted he believes that certain aspects of the plan conflict with the good work the Harbor Commission, the City, and the NMA collaboratively accomplished to have the existing mooring field boundaries updated with the United States Coast Guard. He reported he would be emailing the Harbor Commission a two-page document from 2012 outlining the Coast Guards effort, the federal law, and the codification of the existing mooring boundaries. He advised the documents clearly state that the existing mooring field alignment in no way conflicts with navigation in the Harbor nor does it restrict navigation in the Harbor. He believes the concept of inviting general navigation into the mooring fields will be more dangerous and encouraged the Harbor Commission to review the documents.

5) APPROVAL OF MINUTES

1. Draft Minutes of the November 9, 2022 Harbor Commission Regular Meeting

Commissioner Marston identified one paragraph or maybe two where two different Commissioners provided input on the same paragraph so that would have to be resolved.

Chair Scully opened the floor to public comments.

Wade Womack reported he sent an email regarding an inquiry from the November 9 meeting where a gentleman asked about the transferability and moorings in whether or not they were going to be transferable downstream. He advised that Commissioner Beer was kind enough to clarify that the intent is to allow repeat transferability from an existing permittee to a new permittee and that a new permittee should be able to transfer when he or she sells it but noted the summary of the minutes reflected that the intent was for transferability for existing committees. He recommended that the minutes be clarified to better capture the essence of the conversation and the clarification.

Chair Scully closed the floor to public comments.

Vice Chair Beer thanked Mr. Womack for his comments and that the premise of what was discussed is that existing permittees would be subject to the current provisions of Title 17 and would not be affected by the change and the current provisions of Title 17 based upon the transfers that occur regularly from permittees to new permittee and then from that new permittees to others it is pretty clear that that is allowable under Title 17. He advised he recommended

changes to the wording to reflect that the intent for the transferability is for all existing mooring permittees does not change and remains subject to the provisions of Title 17.

Vice Chair Beer moved to approve the draft minutes of the November 9, 2022 meeting as amended by Chair Scully, Vice Chair Beer, and Commissioner Marston. Commissioner Williams seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Commissioner Marston, Commissioner Svrcek, and Commissioner Williams
Nays: None
Abstain: None
Absent: Secretary Yahn, Commissioner Cunningham

6) **PUBLIC HEARINGS**

1. **Residential Dock Reconfiguration at 335-337 E. Bay Front**

Bill Uncapher (“Applicant”) has applied for a harbor development permit to reconfigure a portion of his shared residential dock system at 335-337 E. Bay Front which includes replacing the gangway and reconfiguring the float from a U-shape to a single-finger float (“Project”). The proposed float extends beyond the pierhead line by 8-feet which is the same distance the existing float extends. Because Applicant is proposing to construct bayward beyond the pierhead line, staff is unable to approve the project. Therefore, Council Policy H-1 directs the Harbor Commission to hold a public hearing for the proposed project.

Recommendation:

- 1) Conduct a public hearing; and
- 2) Find the Project exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3; and
- 3) Adopt Resolution HC2023-001 approving in concept the Project

Public Works Administrative Manager Chris Miller reported that the public hearing is for a dock reconfiguration at 335-337 East Bay Front from a U-shape to a single-finger float. He advised the proposed float extends beyond the pierhead line by eight feet which is the same distance as the existing float extends and presented photos of the location. He advised that shared piers are allowed and are very popular, especially on Balboa Island. He explained that both property owners are equally responsible for paying the City's pier permit fee, but maintenance and uses of the dock are a civil issue between both parties. He noted that if work is done on the pier both permittees would need to sign off.

Public Works Manager Miller reported that City Council Policy H-1 states that the Harbor Commission may approve dock projects that extend beyond the pierhead line if several conditions

and findings are made. He noted those conditions and findings are listed in the staff report in the agenda packet. He advised the resolution reflects the staff's opinion that the conditions and findings have been satisfied. He reported the current pier was permitted to be beyond the pierhead line and presented photos of the existing pier and proposed renderings.

Public Works Manager Miller reported staff believes that the dock does satisfy all the findings in City Council Policy H-1 and noted that there is an onshore mooring that is approximately 16 feet eight inches from the north side of the float at 337 East Bay Front and identified them in the photos. He reported the findings and conditions memorialized in the draft resolution for the Harbor Commission's consideration. He highlighted Condition #8 which states vessels shall not extend beyond the project line because that is dictated in Council Policy H-1 and Condition #9 states that the maximum vessel beam on the north side of the float at 337 East Bay Front shall be 16 feet 8 inches as to not interfere with the existing onshore mooring.

Public Works Manager Miller reported staff has not heard from any of the onshore mooring permittees nor anybody else on this particular project and noted that required outreach was conducted. He advised public notice was posted on-site and mailed to residents within 300 feet ignoring the water which is why the notice goes across the channel. He reported staff placed an ad in the Daily Pilot noticing folks of this meeting and had not received any public comments on this project. Lastly, he presented a document that confirms that both of the shared permittees have signed off on the proposal.

Commissioner Williams inquired if the City's recommendation is a beam restriction of 16 feet 8 inches and requested clarification.

Public Works Manager Miller confirmed that is the staff's recommendation and he was noting it for the record.

Commissioner Williams inquired of the Applicant in support of that beam restriction or has been notified of the beam restriction.

Public Works Manager Miller confirmed the Applicant has reviewed the staff report and conveyed agreement with the staff report. He deferred to the Applicant for additional questions.

Vice Chair Beer inquired if the 16-foot 8-inch beam puts the vessel to the property line or does it leave some distance to the property line.

Public Works Manager Miller referenced the proposed configuration and explained that the distance from the north edge of the proposed float is 18 feet 8 inches

Vice Chair Beer noted there would be 2.5 feet to the property line if there was a vessel that size and requested confirmation.

Public Works Manager Miller confirmed Vice Chair Beer's findings.

Vice Chair Beer noted the onshore mooring looks like it is right on the property line which would indicate that the vessel is half on the projection of the property line and requested clarification.

Public Works Manager Miller confirmed Vice Chair Beer's findings and advised he requested the Applicant provide dimensions from the proposed dock to the mooring and sometimes the measurements on a floating mooring might not be exactly perfect at every tide of the day.

Vice Chair Beer advised there is a similar dock configuration at 339 East Bay Front has a similar dock configuration as is proposed with a vessel there. He inquired about the width between that vessel and the property line and advised his inquiry is to ensure there is enough room for a vessel to pass through there reasonably without hitting other vessels

Public Works Manager Miller advised he did not have that information with him but is certainly a factor to consider. He advised staff would pull up an aerial photo and conduct measurements.

Vice Chair Beer noted that ensuring another vessel from the onshore mooring can navigate in and out of that space is his concern and otherwise would be approving of the reconfiguration.

Public Works Manager Miller explained it is not typical that the onshore mooring would be positioned exactly on the property line. He noted in this case it does appear to be on the property line but it does not happen all the time. He noted that by default the onshore moorings are usually within a permitted area.

Vice Chair Beer advised he was making an observation and noted he did not offhand know the rules and requirements.

Public Works Manager Miller acknowledged it was a good observation. He explained this item is before the Harbor Commission because the staff does not have a rule on how much space should be given on either side of a mooring buoy and noted every case is different.

Chair Scully inquired why the 16 feet 8-inch beam restriction is in place.

Public Works Manager Miller explained he asked the Applicant to provide the distance between the proposed edge of the float and the onshore morning.

Chair Scully inquired if there was any conflict between the two homeowners as it relates to the dock at all.

Public Works Manager Miller confirmed both property owners signed off on the proposed plan.

Chair Scully explained that drawings from a previous permit have a stamp and signatures on them. He inquired if the signatures as presented were the only thing on file.

Public Works Manager Miller confirmed the drawings as presented are the closest thing on file that resembles the current configuration. He advised the next public hearing for consideration has nothing on file.

Chair Scully inquired if the Harbor Commission can rely on the drawings with signatures that this is what was permitted at the approval of the original dock configuration.

Public Works Manager Miller confirmed that this is all staff has to reference, and because the dock has existed for a long time in its current configuration also helps support those findings.

Chair Scully referenced the condition on the permit that states that a vessel cannot extend past the project line. He inquired if there is a hard and fast rule regarding the project line.

Public Works Manager Miller explained there is some conflict with the existing Municipal Code which reflects the beam rule but the special conditions would override that. He hopes clarifications can be made in an upcoming version of City Council Policy H-1. He explained that since there is a special condition on this particular property it would override everything.

Chair Scully requested confirmation that there would be no extending past the project line.

Public Works Manager Miller confirmed and clarified there is 10 feet from the pierhead line to the project line.

Chair Scully requested that as part of the permit, the distances be noted between the end of the float and the project line.

Public Works Manager Miller confirmed what will be approved and that it shows the project line and reflects the 10-foot.

Chair Scully opened the floor to the Applicant for comment.

Jacquelyn Jordan, with CPS Consulting, explained she is the agent for both the homeowner and applicant who are in attendance. She introduced Max Jackson from South Shore Marine Construction and advised they have worked to make a design that meets City Council Policy H-1 and noted they are in complete agreement with the staff report.

Chair Scully opened the floor for public comment.

Hein Austin inquired if fenders have been considered. He noted it is his understanding that a boat of that size would need about a foot or a foot and a half fender on both sides. He explained if both boats utilize fenders it could take 4 to 5 feet from the measurements which may be crucial.

Chair Scully closed public comments.

Vice Chair Beer inquired if the drawing being presented shows that the distance that the new float will extend past the pierhead line is 8 feet and that the total distance between the pierhead line and the project line is 12 feet.

Public Works Manager Miller confirmed that according to the drawing, it is 12 feet.

Vice Chair Beer inquired if there would then only be four feet. He noted there is something at the top of the drawing but does not know what it is.

Public Works Manager Miller explained the top of the drawing reflects a small tick mark that is missing the 8 feet for a total of 20 feet. He apologized for not pointing that out earlier and thanked Vice Chair Beer for pointing it out.

Vice Chair Beer expressed concern about the distance and inquired what would happen if a vessel cannot fit through. He encouraged the dais to provide comments.

Commissioner Svrcek inquired if the boat that is on the shore morning can access the neighbor's piers to go out and around.

Public Works Manager Miller responded that it generally would not be done unless it is something like a kayak. He reported he was able to get to it fairly easily. He presented the Geographic Information System (GIS) drawings from the City's website and measured from the center of the buoy to the existing edge of the float which was calculated at 16.5 feet. He explained the proposal shows that the proposed float will be 18 feet 8 inches from the property line. He advised the onshore mooring is technically within the property line by a little bit.

Chair Scully requested Public Works Manager Miller provide the distance to the other boat.

Public Works Manager Miller conducted the measurements on-screen and reported it would be a little over 8 feet.

Vice Chair Beer inquired how much further out the new float would be.

Public Works Manager Miller reported the new float will be 18 feet eight inches from the property line.

Harbormaster Blank noted the applicant agreed to the beam restriction on the dock. He advised the conditions associated with an approval for a new dock could include an additional condition that in no case shall a vessel on the north edge of the new float impede entrance and egress for the on-shore mooring permittee.

Ms. Jordan advised that one thing she noted was that the photos from the GIS can sometimes be a little off. She reported she walked over to the property and advised there is an easement between the two properties. She noted the mooring can isn't closer to 337 but more right down the middle of the easement. She explained the measurements would be different on Google Earth as compared to the GIS drawings.

Vice Chair Beer inquired whether six feet will remain for the next vessel if the total measurement is 24 feet and if the new dock will stick out around 18 feet He noted that the beam of the vessel could potentially be 2 feet 2 inches from the property line plus the 8 feet for a total of 10 feet.

Commissioner Marston requested the distance between the existing docks at 337 to the north to the south of the dock at 339.

Public Works Manager Miller calculated the measurement on screen and reported it is 38.5 feet.

Ms. Jordan advised she lives on the bay and noted there are mooring cans as well as easements. She expressed the belief that the mooring cans should be in the middle of the easement in a perfect world. She noted it looks like where it should be when visiting the site.

Commissioner Marston noted there is something off in the drawing because it says 30 feet on the top and 22 feet on the bottom.

Public Works Manager Miller reviewed the GIS drawing and reported the length of the float is indeed 30 feet and aligns with the very faint tick mark identified by Vice Chair Beer.

Commissioner Marston recommended the arrowheads on the drawings be made a bit more distinct.

Public Works Manager Miller clarified it is 30 feet long.

Commissioner Williams requested clarification that there is nothing in the Municipal Code that addresses egress as it relates to boats on onshore moorings and reconfigurations of docks.

Public Works Manager Miller confirmed there is nothing specific in the Municipal Code.

Commissioner Williams explained that given there is nothing specific in the Municipal Code, the Harbor Commission must look at this through the lens of the homeowners who have agreed to shared properties for their specific dock. He inquired how much consideration should then be given to an onshore mooring that is not part of this property.

Public Works Manager Miller agreed that was a great question but has never been fully answered during his tenure with the City. He explained the City's forefathers positioned onshore moorings within people's water space for their particular homes. He agrees that homeowners should have the ability to reconfigure their dock to their specifications but with no specific Municipal Code, the City oftentimes is the mediator between disputes on a case-by-case basis.

Commissioner Williams explained his position is that if there is no Municipal Code to rely upon the Harbor Commission would have to look at this as an agreement between two homeowners. He noted that other property owners have been given ample time and notice to state their case if they opposed the reconfiguration.

Commissioner Svrcek inquired about the width of the easement between the two properties and inquired if the property line travels down on each side of that easement.

Public Works Manager Miller reported the breezeway between the 2 properties is 8 to 9 feet and confirmed the property line does run down on each side of the breezeway. He explained that the aerial photos are never perfectly on top and never true to eyesight.

Commissioner Svrcek noted that if the property line goes down on both sides of the easement it should be fixed at 8 feet and always open. He requested clarification.

Public Works Manager Miller agreed that in theory, it should be because it is a public space aside from onshore moorings.

Commissioner Svrcek inquired if the 16.5-foot beam goes over the property line and if it encroaches on the easement.

Public Works Manager Miller explained it does not encroach into the easement because the drawing shows it to the property line and the proposed float is 18 feet 8 inches.

Commissioner Williams inquired if in theory if this were to be contested later the bigger discussion would be the current dock and boat that sits on it at 339.

Public Works Manager Miller agreed that would be a contributing factor and would need to be surveyed on the water.

Chair Scully inquired about Harbormaster Blank's recommendation to include an additional condition that in no case shall a vessel on the north edge of the new float impede ingress and egress for the onshore mooring permittee. He inquired if there have been any similar conditions included in previous approvals for the reconfiguration of docks or floats.

Harbormaster Blank advised there are none to his knowledge.

Chair Scully suggested that the Applicant clean up the drawing to make the measurements easier to read and interpret for the permit.

Public Works Manager Miller advised that could be easily done.

Chair Scully called for a motion to approve the residential dock configuration at 335 and 337 East Bay Front as submitted and to approve the resolution that is part of the staff report.

Commissioner Williams moved to approve the dock reconfiguration as proposed along with the City's recommendation of the beam restriction of 16 feet 8 inches. Vice Chair Bear seconded the motion.

Public Works Manager Miller requested the motion also include the CEQA negative declaration as part of the motion.

Chair Scully amended his call for the motion to include finding the project that is exempt from CEQA.

Chair Scully opened the floor for public comments. There being no speakers, public comments were closed.

Commissioner Williams moved to find the Project exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3; and adopt Resolution HC2023-001 approving in concept the Project. Vice Chair Beer seconded the motion. The motion carried by the following roll call vote:

Ayes: Chair Scully, Vice Chair Beer, Commissioner Marston, Commissioner Svrcek, and Commissioner Williams
Nays: None
Abstain: None
Absent: Secretary Yahn, Commissioner Cunningham

2. Residential Dock Reconfiguration at 546 S. Bay Front

Will Cooper (“Applicant”) has applied for a harbor development permit to reconfigure his residential dock system at 546 S. Bay Front which will include removing and replacing the pier, pier platform, gangway, and float in a similar configuration (“Project”). The proposed float extends beyond the pierhead line by 3-feet, 1-inch (3’-1”) which is the same distance as the existing float extends. Because Applicant is proposing to construct bayward beyond the pierhead line, staff is unable to approve the project. Therefore, Council Policy H -1 directs the Harbor Commission to hold a public hearing for the proposed project.

Recommendation:

- 1) Conduct a public hearing; and
- 2) Find the Project exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3; and
- 3) Adopt Resolution HC2023-002 approving in concept the Project.

Public Works Manager Miller reported this is almost identical to the previous public hearing. He advised the Applicant at 546 South Bay Front wishes to replace the pier platform gangway and float in a similar configuration. He reported the float extends beyond the pierhead line by three feet one inch which is the same distance that the existing float extends as shown in the aerial photos. He advised this dock is adjacent to but not directly in front of the B mooring field.

Public Works Manager Miller reported that City Council Policy H-1 states that the Harbor Commission may approve dock projects that extend beyond the pierhead line if a number of conditions and findings are made. He advised that staff believes all conditions and findings have been met. He reported the file on this property is very slim and there are no drawings. He presented the existing city-issued pier permit and the amount the Applicant pays for the annual Pier Permit Fee.

Public Works Manager Miller explained the City has approved this particular case by default because there is no other evidence otherwise in the file. He presented the existing configuration and noted it extends beyond the pierhead line by 3 feet 11 inches. He reported staff recommends approval and advised a public notice was given at the posting site, to residents within 300 feet, and posted in the Daily Pilot. He advised staff received one public comment from the onshore mooring to the east of the property which was distributed to the Harbor Commission this afternoon. He read the public comment received from Joe Fletcher which was included in the agenda packet.

Public Works Manager Miller presented an aerial photo that paints a slightly different picture than what was depicted by the picture included in the public comment. He presented aerial photos of residential moorings on Balboa Island and noted the rule on Balboa Island states that no new non-commercial piers shall be built on Balboa Island to help mitigate overcrowding of piers.

Public Works Manager Miller reported that staff recommends approval. He advised the draft proposed resolution includes special conditions that vessels shall not extend bayward beyond the project line, the maximum beam of a vessel on the east side of the float is 8 feet, and the maximum beam of a vessel on the west side of the float is 5 feet based on the drawings that were submitted to the city.

Vice Chair Beer noted that Public Works Manager Miller advised that the existing square footage is 707 square feet but the drawing lists 729 square feet. He advised that the usable area of the dock is increasing and noted it is a good design. He noted the reduction may have occurred as a result of narrowing the pier works for the City but expressed interest in what the California Coastal Commission would have to say.

Public Works Manager Miller explained that the Applicant and designers go to great lengths to ensure that the dock system when rebuilt is equal to or less than the existing square footage because the Municipal Code states that it cannot be increased. He confirmed the narrowing of the pier was one way of reducing the square footage. He noted that the California Coastal Commission is always looking for ways to reduce the footprint. He explained the 4-foot minimum is something the Applicant can easily do and makes them look better in the eyes of other agencies.

Commissioner Marston inquired if the beam restrictions of 8 feet and 5 feet extend to the interior as well.

Public Works Manager Miller explained that is for the prolongation of the side property line that determines the width of a vessel that could tie there. He further explained that a five-foot setback is required when rebuilding.

Commissioner Marston inquired if this would place the edge of the boat right on the property line.

Public Works Manager Miller confirmed that is the case but the onshore mooring is inside the permitted area.

Commissioner Marston acknowledged it is inside the permitted area but looks like it is only a foot which is not much room.

Commissioner Marston requested that drawings in the future include a north arrow for reference.

Commissioner Svrcek inquired if the drawings show the distance between the end of the float and the project line.

Public Works Manager Miller noted it does not include the distance.

Commissioner Svrcek requested it is included in this request and future permit requests.

Chair Scully opened the floor to the Applicant for comments.

Pete Swift, representing the homeowner, provided background on the dock. He explained the homeowner wanted to just rebuild the dock but realized it had to be moved over by 5 feet. He reported the dock was moved to 5 feet, and in doing so the major part of the dock by the outside tie had to be reduced by 3 feet. He noted the dock has been in place since the 1960s. He explained the dock is also impacted by the sand that is placed on the beach to maintain the beach level and it gets very shallow at low tide. He expressed hope that City Council Policy H-1 is revised soon. He referenced the concern expressed by Mr. Fletcher in the public comments and noted they were not concerned because there are 80 feet between the 2 docks. He noted there is quite a bit of room to get out and advised the homeowner only has 1 place to tie the boat. He commented that is getting a little ridiculous when you go onsite and see how much room is available. Lastly, he encouraged the Harbor Commission to approve the reconfiguration as proposed.

Chair Scully opened the floor for public comments.

Joseph Fletcher advised he wrote the public comment that was submitted via email. He reported his family has had this shore mooring for over 30 years. He advised he was unsure why their float has always been closer to shore than the others. He noted he has a 12' Capri tied to the shore mooring. He explained the biggest conflict historically is his boat running into their pier or running into their Duffy during weather events because his mooring is so close to their pier. He explained that the Duffy is tied to the pier a couple of feet from his mooring line and cannot access the mooring from the west side. He further explained it is a little tricky coming in on the east side only.

Mr. Fletcher expressed concern that if the Applicant's pier moves and introduces a larger side tie it will exacerbate problems between him and the Applicant.

Mr. Fletcher explained that one of the reasons the float is moving eastward is because they are required to have a 5-foot setback. He advised that there is plenty of side tie space that is being taken away by moving the float over although there is no operational reason why it needs to move. He reported there is currently a spar that extends towards his mooring from the northern part of the pier that he has had to replace a couple of times because his boat hits it during storms. He

requested it not be part of the plans moving forward as it is not needed. He encouraged mitigating operational disputes between the pier and his mooring.

Chair Scully closed the floor for public comments.

Commissioner Svrcek inquired about the maximum length of the beam allowable on the side tie.

Public Works Manager Miller reported the existing maximum beam is 9 feet 10 inches. He reported the new maximum beam would be 8 feet.

Commissioner Svrcek noted there is currently a beam that goes to the property line of 10 feet and will now be an 8 feet beam. He explained that the maximum is the same on the property line currently and in the future.

Public Works Manager Miller explained the property line is still that imaginary wall down the water that does not move.

Chair Scully called for a motion to approve the residential dock reconfiguration at 546 South Bay Front which has been presented by staff and as outlined in the resolution that is attached to the staff report and also to find this project exempt from CEQA.

Commissioner Marston moved to approve the residential dock reconfiguration at 546 South Bay Front which has been presented by staff and as outlined in the resolution that is attached to the staff report and also to find this project exempt from CEQA. Commissioner Svrcek seconded the motion.

Ayes: Chair Scully, Vice Chair Beer, Commissioner Marston, Commissioner Svrcek, and Commissioner Williams
Nays: None
Abstain: None
Absent: Secretary Yahn, Commissioner Cunningham

3. Public Pier Reconfigurations at 15th Street, 19th Street, Coral Avenue, Fernando Street, Opal Avenue, Park Avenue, and Washington Street

The City of Newport Beach ("City") is replacing and reconfiguring the floats at ten of the City's public piers. Most floats will be reconfigured in approximately the same configuration as the existing floats with minor modifications. The floats at seven of the ten locations (15th Street, 19th Street, Coral Avenue, Fernando Street, Opal Avenue, Park Avenue, and Washington Street) extend beyond the pierhead line by various distances. The proposed floats will extend the same distance as the existing floats extend. Because the City is proposing to construct bayward beyond the pierhead line, staff is unable to approve the project. Therefore, Council Policy H-1 directs the Harbor Commission to hold a public hearing for the proposed project.

Recommendation:

- 1) Conduct a public hearing; and
- 2) Find the Project exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15301 (Existing Facilities) and Section 15302 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3; and
- 3) Adopt Resolution HC2023-003 approving in concept the Project.

Public Works Manager Miller reported this is the City’s dock project to replace the floats on all 10 of the City’s public piers. He advised 7 of the floats extend beyond the pierhead line at varying distances. He reported they have been previously approved to be in their present locations. He noted they have been City public piers since the late 1940s. He advised the current floats were between the late 1990s and the early 2000s. He noted they have exceeded their useful life because they are heavily used. He advised they will be replaced but also enhanced. He presented a PowerPoint of each public pier. He requested questions be held at the end of each public pier.

Public Works Manager Miller presented aerials of 15th Street Pier. He advised the pierhead line exceeds the pierhead line. He advised that from an efficiency standpoint dingy space would be gained and restrictions for tying up dinghies would be eliminated.

Chair Scully commended Public Works Manager Miller for the layout and noted it was tremendous.

Public Works Manager Miller reported the change at 19th Street has to do with efficiencies. He explained the observations that he has received over the years are that there is an inevitable shoaling issue from the sand at 19th Street public beach that will eventually slough down and then we have to dredge it. He advised that makes navigation around that finger much more difficult and becomes another factor to deal with. He noted the subtle changes would be beneficial for the public.

Commissioner Marston inquired if there are any restrictions to this dock for boats being over the project line.

Public Works Manager Miller explained there are no restrictions because the project line would be bayward of the outside edge of the float and boats are not docked permanently. He noted boats here would be docked for a very small number of minutes or hours.

Public Works Manager Miller presented the proposed changes to the Coral Avenue public dock and noted this is where the City is trying its hardest to improve the public float ever so slightly but important way. He advised a small 2-foot by 2-foot section of the dock is proposed to be added onto the back side and which will convert the outboard pile to an inboard pile.

Commissioner Marston inquired about the color of the bottom of the sea floor at Coral Avenue.

Public Works Manager Miller identified that as eelgrass.

Commissioner Marston noted more eelgrass will be covered with the extension.

Public Works Manager Miller explained that eelgrass is always a problem and the City will work with the regulatory agencies to see what can be approved. He advised that Plan B might be to go through the expense of taking out the pile, reconfiguring the floats, and reusing the pile although that is not the preferred plan. He explained that sometimes piles can be reused and sometimes they cannot. He advised an argument can be made that the impact on the eelgrass is minimal since it is on the edge.

Commissioner Marston inquired if that would be coming from the California Coastal Commission.

Public Works Manager Miller advised it would be coming from all three of the pertinent regulatory agencies.

Commissioner Svrcek advised the benefit for Coral Avenue would be 2 more dingy tie-ups.

Public Works Manager Miller clarified it would be 2 to 4 more dingy tie-ups depending on size but would indeed be a significant public benefit.

Vice Chair Beer remarked that the City has spent a lot of time on these. He noted that something that was never looked at as a Plan B was to narrow the pier a little bit to offset the square footage which may be worth considering.

Public Works Manager Miller agreed with the idea and noted it could be narrowed from the side property line to the side property line perhaps.

Vice Chair Beer noted he got that idea from Pete Swift.

Public Works Manager Miller presented the proposed changes to the Fernando Street public dock. He advised this will be a straight like-for-like replacement.

Public Works Manager Miller presented the proposed changes to the Opal Avenue public dock. He noted that this is an interesting public pier because the left side of the public pier is a commercial marina and has been in this configuration since the 1940s. He advised there is no tie-up zone on the north or west side of the float so the Duffy's can have ingress and egress out on that commercial pier. He noted this reconfiguration is similar to Coral Avenue where the existing float will be replaced, a few square feet will be added to the back side of the float, as well as replacing the gangway to make it a bit longer and bring it up to code.

Commissioner Marston inquired if boats are allowed to be tied to the west side of the picture being displayed.

Public Works Manager Miller advised boats would not be allowed to tie to the left side but they could use a dinghy on the backside as long as it was tied up so as not to impede vessels coming in and out of the commercial arena.

Chair Scully inquired if Harbormaster Blank has any issues with boats docking in that location.

Harbormaster Blank advised no issues have been reported.

Public Works Manager Miller presented the proposed changes to the Park Avenue public dock. He advised this would be replacing the float as is and adding on small sections of the backside and a new 24-foot gangway.

Public Works Manager Miller presented the proposed changes to the Washington Street public dock. He advised it is a very small public pier on a very small street end. He advised this would be replacing the float and adding to the backside of it.

Commissioner Svrcek remarked that this is a well-located float as it has access to restrooms, restaurants, and the pavilion, but it only holds two boats. He noted there is a pile to the right on the picture closer to the pavilion that obstructs the entire zone. He recalled it being put there to add safety to the tour boats. He recommended exploring what could be done in the future to open up that space as it would be beneficial.

Public Works Manager Miller advised the pile was installed over 20 years ago by the adjacent property owner. He remarked that he always thought that it would be a good idea to work with the current owner of the Fun Zone so if they do reconfigure the commercial marina in the future they may be able to combine forces and somehow combine a marina design with a public pier design to more efficiently use the space and address the Commission's concern about all access tie up. He noted that would be a long-term goal.

Commissioner Svrcek inquired about the distance from the pile to the larger boat in the photo.

Public Works Manager Miller advised he is unsure if that boat is still there or if it may be a different boat.

Commissioner Svrcek remarked that may be a long time before the Fun Zone area gets redone so the City may be stuck with this plan for quite a while. He inquired if there was any possibility that the pile could be moved closer to the pavilion because the distance between the existing float and that pile is almost enough for a Duffy. He explained if it was moved over a couple of feet it could provide safety and perhaps another slip another side tight.

Public Works Manager Miller remarked that it may be challenging but staff can explore that option at the direction of the Commission.

Public Works Manager Miller reported staff believes that the dock reconfigurations satisfy all the conditions or findings in City Council Policy H-1. He clarified there are no special conditions and recommended approval.

Chair Scully inquired why the City does not issue special conditions even though special conditions apply.

Public Works Manager Miller explained that the City typically does not condition itself.

Chair Scully opened the floor for public comments.

Keegan Haggerty expressed support for closing the piling at Park Street and Opal Avenue but noted there is nothing that prevents a dinghy that is tied there from swinging the stern under the gangway and at high tide that can push the boat underwater. He recommended adding a bar or something similar to keep the boat from drifting under which would also allow more than one boat to tie up with just the bow.

Hein Austin inquired if it was possible to add more bolt-in pilings to the floats because it is very useful for regular users of the dinghy dock parking areas if the dinghy docks get crowded, then the dinghies rub up against those pilings. He referenced experiences where he caught his just in time before the piling sawed through his dinghy. He explained there is a lot of movement when there is a lot of traffic and there would less chance of a piling sawing through a dinghy that is forced to dock up against it. He advised the current floats have single-tie 12-inch cleats on them. He noted that Marina Park has tracks where there are long areas to tie up a dinghy. He explained that a one-tie cleat creates crowded conditions and the first user who arrived would then have to dig out their mooring from the other users. He remarked that many people like to go fishing at these public docks for hours and there is no restroom on site. He inquired if the Harbor Commission still has an interest in providing public restrooms for people who like to enjoy the public piers. He reminded the Commission that he handed out flyers a few meetings back identifying an outhouse system that would provide 10 outhouses and could be serviced by a local company for \$30,000 per year. He encouraged the Commission to redirect the \$30,000 in savings from the pump-out system maintenance into a system for the public to enjoy the public piers which will benefit the public and homeowners.

Wade Womack inquired if the 19th Street Pier is going to be reconfigured. He thanked Commissioner Svrcek for his comments regarding the piling at Washington Street Pier. He inquired if there was some new technology to do a smaller diameter piling in there and wrap it in rubber or some other protective material to make that space more usable.

Chair Scully closed the floor for public comments.

Commissioner Williams requested that the public comments are taken into consideration as they are fantastic ideas.

Commissioner Svrcek inquired if the Washington Street float was more narrowly reduced and if it would then allow enough width with between the pile and the float to get another boat in there if the pile cannot be moved towards the pavilion side.

Public Works Manager Miller advised he is always hesitant to give up a dock space on an already narrow float but it is something to consider. He explained this dock is used on the bay ward face of the dock so keeping a size that is conducive to general boating is also helpful. He noted there is also an existing pump-out station on this dock and are encourage boats with heads aboard to pump out there so it is a balance of needs.

Chair Scully inquired if the slip where the boat and piling are at Washington Street Pier is part of the Fun Zone.

Public Works Manager Miller confirmed it is not part of the Fun Zone and does not have new owners. He advised the Fun Zone property is to the west of the public pier.

Chair Scully called for a motion for approval of a public pier reconfiguration at 15th Street, 19th Street, Coral Avenue, Fernando Street, Opal Avenue, Park Avenue, and Washington Street which includes finding the project exempt from CEQA.

Vice Chair Beer moved for the approval of a public pier reconfiguration at 15th Street, 19th Street, Coral Avenue, Fernando Street, Opal Avenue, Park Avenue, and Washington Street which includes finding the project exempt from CEQA. Commissioner Marston seconded the motion.

Commissioner Williams offered a friendly amendment to consider the public comments and suggestions. Vice Chair Beer and Commissioner Marston accepted the friendly amendment.

Ayes: Chair Scully, Vice Chair Beer, Commissioner Marston, Commissioner Svrcek, and Commissioner Williams

Nays: None

Abstain: None

Absent: Secretary Yahn, Commissioner Cunningham

7) **CURRENT BUSINESS**

1. **Review of 2023 Harbor and Beaches Master Plan Projects**

Staff will provide an overview of the 2023 Harbor and Beaches Master Plan Projects ("Plan"). The Harbor Commission is requested to review and approve the plan.

Recommendation:

- 1) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and

- 2) Approve the Harbor and Beaches Master Plan Projects and recommend staff forward to the Finance Committee for consideration.

Public Works Manager Miller reported the Harbor Commission subcommittee reviewed this plan last summer and made recommendations to the Harbor Commission at the November 9 meeting. He explained the intent is that the Harbor Commission would review and provide comments and approve the plan this evening so it can be forwarded to the Finance Committee in February.

Public Works Manager Miller explained the Harbor and Beaches Master Plan is a guidance document and not a budget. He advised numbers are provided for estimates based on today's known facts and conditions and recognizing that those numbers will change over the years. He advised that most of the projects are rebuilding and replacing existing infrastructure, but some of them are newer projects that we might envision. He noted some projects do not have a clear vision of what they might be but the Harbor Commission asked that those projects be listed in a section called potential projects. He provided an overview of the organization of the Master Plan and advised they are listed by dates of completion or commencement. He noted projects can be impacted by a number of factors including funding, staff workload, and permitting.

Public Works Manager Miller reported that the biggest projects on the list are the Balboa Island seawalls and the Newport and Balboa Piers which are a significant percentage of the overall spreadsheet. He provided a brief overview of the process of working with the Finance Department for planning for these projects. He advised he could answer any big-picture questions but would need to get back to the Commission for any detailed financial questions.

Vice Chair Beer inquired if the American Legion bulkhead repair has been completed.

Public Works Manager Miller reported it is halfway through completion at this time.

Vice Chair Beer inquired if the \$22 million budget for the Ocean Pier is based upon the project that is being reviewed by the City.

Public Works Manager Miller explained that number comes from the best judgment of the Public Works Staff. He confirmed it has not been formally priced out. He noted that significant repair is done to the public piers every other year, so they have a good idea of the number.

Vice Chair Beer remarked that the pier being proposed is concrete and would be substantially different. He inquired if those materials were factored into this figure.

Public Works Manager Miller confirmed that different materials and construction components are factored into the big number. He noted staff uses their best judgment knowing they may be slightly off.

Commissioner Marston noted that there is some discrepancy between the dashboard numbers and the numbers in the spreadsheet. She inquired if there is a reason for the difference in the numbers.

Public Works Manager Miller explained Finance Department takes the spreadsheet and then does the future value numbers.

Commissioner Marston noted none of the numbers seem to match so he may want to investigate. She inquired if the grants are allocated to specific projects or does the City receive a certain amount of then decides how to spend it.

Public Works Manager Miller explained one example is cost-sharing grants such as what is being done for dredging the harbor where the City shares the cost with another agency. He noted another example is the pump-out facilities at each of the public piers that are subsidized through grants from the state which pays about 75% of the cost of the pump-out facilities. He advised there are other grants that the City pursues for water quality type issues and things like that that staff tries to project on the spreadsheet.

Commissioner Marston inquired if those grant funds expire.

Public Works Manager Miller explained that for example, the state will offer a grant for as long as they have funds for the pump-out stations.

Commissioner Marston inquired about the public piers work which shows a design start of 2021. She encouraged staff to update the dates regularly as there are some dates in the spreadsheet that have already passed.

Public Works Manager Miller explained for that specific project it was well into the conceptual design stage. He noted the next 9 to 12 months will be in the permitting stage on that project and hopes to build it next year.

Commissioner Marston inquired if the Balboa Yacht Basin Marina will be starting this year.

Public Works Manager Miller confirmed it will be starting this year.

Commissioner Williams inquired about the mechanics of recommending approval of the budget. He observed that some projects have a dollar amount and some do not. He inquired if the Harbor Commission approves the plan tonight and goes on the Finance Committee for approval, do the potential projects that have a dollar amount listed get funding earmarked.

Public Works Manager Miller explained that the section for the potential projects has not been flushed out yet. He confirmed that a recommendation tonight would not earmark funds for that project. He noted this is a fluid document and things can change. He explained it is a recommended path forward. He explained that staff meets with Public Works Director Dave Webb to see what is happening in the Capital Improvement Program (CIP) to determine what can be tackled in the next year.

Chair Scully commended this year's process for the Master Plan as compared to last year and hopes to repeat the process next year. He expressed the importance to add the projects to the list that are important to the Harbor Commission that the remainder of the City does necessarily

understand or see. He noted the Harbor Commission can work with the City council to raise awareness.

Chair Scully opened the floor for public comments.

Wade Womack reported he was able to review the 2023 Harbor and Beaches Master Plan Projects online. He recommended presenting it in a slideshow format so the audience can view it while it is being discussed. He noted it might lead to more public engagement and audience participation.

Chair Scully closed the floor for public comments.

Chair Scully called for a motion to approve the Harbor and Beaches Master Plan for 2023 and to find it exempt from CEQA.

Commissioner Marston moved for the approval of a public pier reconfiguration at 15th Street, 19th Street, Coral Avenue, Fernando Street, Opal Avenue, Park Avenue, and Washington Street which includes finding the project exempt from CEQA. Commissioner Williams seconded the motion.

Ayes: Chair Scully, Vice Chair Beer, Commissioner Marston, Commissioner Svrcek, and Commissioner Williams
Nays: None
Abstain: None
Absent: Secretary Yahn, Commissioner Cunningham

2. Ad Hoc Committee Updates

Several Ad Hoc committees have been established to address short-term projects outside of the Harbor Commission's objectives. This is the time the ad hoc committee will provide an update on their projects.

Recommendation:

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Chair Scully reported he is working on City Council Policy H-1 ad hoc committee with Commissioner Marston. He thanked Public Works Manager Miller for his work on H-1 and advised he would like to bring the revised policy to the Harbor Commission for review at the next meeting.

Commissioner Svrcek had no update for the 2023 Harbor and Beaches Master Plan Projects ad hoc committee.

Chair Scully referenced the single-page handout of the Harbor Commission Objectives for 2023 in the agenda packet. He reported he has been working on taking some of the 2022 objectives and some of the Harbor Commission is doing and cutting it down to a finite number that could get accomplished in a period such as 2023 or over 12 months. He recommended the Harbor Commission review the objectives and come back with input and feedback. He advised that once the list is nailed down, Commissioners will be assigned to those objectives and the list will be forwarded to the City Council. He would like to bring the objectives back to the Harbor Commission for review in February.

Chair Scully opened the floor for public comments.

Wade Womack noted that approximately 50% of the objectives have to do with altering or affecting the moorings and hoped that Harbor Commission consider taking a couple of those objectives off if they do not appear fruitful. He expressed hope that there are fewer objectives in 2023 targeted toward the moorings.

Chair Scully closed the floor for public comments.

The item was received and filed.

3. Harbor Commission 2022 Objectives

Each ad hoc committee studying their respective Functional Area within the Commission's 2023 Objectives, will provide a project update.

Recommendation:

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Functional Area 1: No report due to Commissioner Yahn's absence.

Functional Area 2: Vice Chair Beer reported on Objective 2.3 for the Mooring Field Optimization and Reconfiguration Plan and advised 4 stakeholder meeting were held. He advised a meetings was held with the NMA board, another with NMA stakeholders, along with the Balboa Island Improvement Association. He reported receiving constructive feedback and advised the ad hoc committee is currently discussing the item and will return with recommendations.

Functional Area 3: No report due to Commissioner Cunningham's absence.

Functional Area 4: Chair Scully reported there is nothing to report for Objective 4.1. He reported Objective 4.2 as it relates to the Lower Castaways will continue into 2023.

Chair Scully reported that on Objective 4.3 it is time to set a new date and time for Newport Harbor Safety Committee. He noted the inaugural meeting went well and looks forward to the next meeting. He reported Objective 4.32 is completed.

Vice Chair Beer corrected his previous statement and clarified he was speaking to Objective 2.3

Chair Scully opened the floor to public comments. There being no speakers, public comments were closed.

The item was received and filed.

4. Harbormaster Update – November and December 2022 Activities

The Harbormaster oversees the City Harbor Department and is responsible for the management of the City's mooring fields, enforcement of the Municipal Code, event permitting, safety and rescue operations, the Marina Park Guest marina, marine sanitation pump-out equipment, and public pier maintenance, impound and disposition of abandoned and unclaimed vessels and public relations and information dissemination on and about Newport Harbor.

This report will update the Harbor Commission on the Harbor Department's recent activities.

Recommendation:

- 1) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- 2) Receive and file.

Harbormaster Blank reported a considerable amount of activity in November and December. He advised a great deal of cleanup took place including dewatering of various vessels, removal of debris from the harbor after the King Tides as well as significant rain events. He advised someone placed a chair on top of Nav marker 5 and permission was obtained from the Coast Guard for its removal. He reported a Caltrans barrier was retrieved from the Harbor near the B field and has been returned.

Harbormaster Blank reported a notice of bad weather was sent to visiting or transient boaters who were on a mooring sub-permit or a guest in Marina Park which was a first. He advised an amazing

number of rescues were performed over the last 60 days and larger vessels were pitched out to City contractors for services.

Harbormaster Blank reported receiving a complaint from a peninsula resident about activity that was happening on a permitted moored boat during the boat parade. He clarified that the permittee was enjoying the boat parade with a large group of people on board his permitted vessel on the permitted morning. He explained the peninsula resident thought that was outside the boundaries of what a reasonable person could tolerate. He noted conversations were had with both parties and all went away satisfied.

Harbormaster Blank reported a notice of violation was sent to the residential dock owner due to the vessel in his birth overhanging the prolongation of the property line. He noted the recipient of the notice of violation actually called the Harbor Department to praise our activities and not to question the notice of violation that he received.

Harbormaster Blank reported 27 of 30 items were sold at the auction in November netting nearly \$3000 for the General Fund. He clarified funds collected at the abandoned vessel auctions go into the City's General Fund and does not come back to the Harbor Department. He reported the Orange County Board of Supervisors approved the lease agreement for Balboa Marina expansion into county tidelands. He noted the expansion will be handled by the Irvine Co. He announced finally receiving approval from the City Attorney's office to make slip agreements at Marina Park and with sub-permit agreements more consistent with one another.

Harbormaster Blank presented current occupancy and revenue collected by the Harbor Department of Marina Park stays and sub permits on both onshore and offshore mornings. He noted 2022 was still well ahead of 2021 and the trend is good for occupancy and revenue. He provided a brief overview of year-over-year statistics which he reported remain constant. He reported the mooring reports jumped in November because staff found some moorings they did not know about. He reported staff continues to work at closing in on that 991-morning permit number. He advised there are 14 mooring permits in the process right now and 939 fully executed.

Commissioner Marston remarked that were no shouting icons during this report.

Harbormaster Blank noted there was nothing that rose to that level of reporting but there will be for January.

Commissioner Svrcek reported he had a friend that was in Hawaii who has a house on the Bay Front who called him to go over and scare away the seals that were on his dock. He reported that on arrival the Harbor Department had already removed the seals from the dock and beat him to the punch without even a call. He thanked them for their service.

Chair Scully noted the Harbor Department is doing a ton of work in the mooring fields with fouled props and mooring boats in the morning fields coming loose requiring the need for towing and de-watering boats. He inquired if it makes sense to charge for those services.

Harbormaster Blank remarked that his initial response is that the City does not want to be competitive with commercial tow services. He noted when the Harbor Department can conveniently do it within its scope of work then it makes sense to provide that service. He explained they do on occasion pitch out to the commercial tow services when the service needed is beyond our scope and he is sure that those commercial services do charge the boat owner.

Harbormaster Blank reported the Harbor Department typically provides a line for tying boats back to their moorings because the line has been severed. He explained if the line is unrecoverable or cannot be returned within 1 week the mooring permittee is charged for the line. He reported for dewatering that if staff can get to it with their dewatering stick and it is not a half-million boat, staff can adequately perform dewatering services. He noted it helps provide some connection with the people for whom we provide that service that may not be paying attention to their boats and gets them prompted to do a little extra maintenance. He advised they pitch out to commercial services for boats that are beyond the staff's scope or where it is clear that the commercial services could collect a fee from the vessel owner. He noted he believes that is a healthy balance but it can be further investigated.

Harbormaster Blank reported any fee that would be charged would have to be determined through a Fee Study done by an outside independent body and then approved then recommended by the Finance Committee for approval by the City Council.

Chair Scully noted that it looks like the frequency is increasing and a lot is going on.

Harbormaster Blank acknowledged the frequency has been extraordinary based on the severe weather in the last 60 days.

Chair Scully referenced the comment in the staff report about an unpermitted charter pickup up at Marina Park.

Harbormaster Blank noted that was gutsy.

Chair Scully inquired about the 301 instances of Marina Park dock maintenance in the report.

Harbormaster Blank advised he will look into that but believes it to be a recording error.

Chair Scully inquired if there was an opportunity to place a restroom on the new dock at Balboa Marina.

Harbormaster Blank reported that is private property all owned by the Irvine Co.

Chair Scully inquired if it will be a public dock.

Harbormaster Blank advised it will be a public dock and the City will own this dock structure but the City does not own the land upland. He noted it is all owned by the Irvine Co. He reported there will be restaurants and other public amenities nearby within walking distance including a filling station, fuel station, a Starbucks, and several other eating and drinking establishments.

Chair Scully inquired about the sea star

Harbormaster Blank reported that Pebbles is doing fine but he has had a chance to go out and check on him. He reported the City's University of California Irvine intern that is doing the study on metrics for measuring water quality and health of the sea life in Newport Harbor was being given a tour by one of our Harbor Services Lead.

Chair Scully opened the floor to public comments.

Wade Womack requested clarification on the sea star.

Harbormaster Blank explained a sea star is what we used to refer to as a starfish. I do not know when the fish lobby rose up and declared that those creatures are not allowed to be referred to within their affinity group.

Mr. Womack thanked Harbormaster Blank for all his hard work and apologized for the extra work the NMA brings on. He thanked Vice Chair Beer for putting together the stakeholder meetings. He referenced the revenues from the moorings and discussion of the concept of charging for ancillary services. He reminded the Commission that when the Harbor Department was formed in roughly 2017 the revenues from the moorings made up almost the entire budget for the Harbor Department with the mooring permittees paying for a huge chunk of the Harbor Department. He expressed his belief that a large portion of the Harbor Department's budget relies on mooring permits. He encouraged the Commission to consider where the money is coming from when considering charging for services. He encouraged the Commission to request that the California Recreation Company accommodates the City by providing a restroom on the dock in exchange for permission to expand into public Tidelands.

Chair Scully closed the floor to public comments.

The item was received and filed.

7) MOTION FOR RECONSIDERATION

None

8) COMMISSIONER ANNOUNCEMENTS (NON-DISCUSSION ITEM)

Chair Scully reported that the stakeholder meetings that were held were very good. He noted a date needs to be set for the next Newport harbor Safety Committee

9) MATTERS WHICH COMMISSIONERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT (NON-DISCUSSION ITEM)

Chair Scully requested to agendize the review and approval of City Council Policy H-1 and the 2023 Harbor and Beaches Master Plan Objectives.

10) **DATE AND TIME FOR NEXT MEETING: Wednesday, February 8, 2022 at 5 p.m.**

11) **ADJOURNMENT**

There being no further business to come before the Harbor Commission, the meeting was adjourned at 7:33 p.m.

DRAFT